REMARKS

Claims 1-19 are pending in the application and stand rejected.

Rejection under 35 U.S.C §103

Claims 1, 3-5, 8-11, 14, and 16-18 stand rejected under 35 U.S.C. 102(b) as being unpatentable over U.S. Pat. No. 5,774,829 to Cisneros et al. in view of U.S. Pat. No. 6,650,284 to Mannings. Applicant presumes that the Examiner intended to cite to 35 U.S.C. 103(a) instead of 102(b), and the present response is predicated upon this presumption.

In particular, the Examiner finds that Cisneros discloses all limitations of claims 1 and 14, with the exception of adaptively varying the update interval between the location updates from said first source in dependence on the provision of location data indicative of the current location of the mobile entity from at least one other source of location data that operates independently of said first source and the location updates provided thereby. The Examiner further opines that "Mannings, in the same field of endeavor, teaches a method of adaptively varying the frequency or interval of location updates based on the system conditions like size and nature of the overlay area and/or speed of the vehicle" (citing to col. 15, ll. 25-41) and then concludes that it would have been obvious to the skilled person to "provide the teachings of Mannings to Cisneros in order to avoid unnecessary updates and thus improve the transmission capacity."

Applicant has reviewed the two references with care, paying particular attention to the passages cited to by the Examiner, and is compelled to disagree with the Examiner's characterization and understanding of these references.

"To establish a prima facie case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings." MPEP §2142. The Examiner has set forth not the slightest hint of such motivation, real or otherwise, in either of the cited references nor has she invoked the general knowledge of those skilled in the art. To broadly allege that the references are "in the

same field of endeavor" is irrelevant, as there is no statutory requirement nor legal test that is related to the "field of endeavor" of the references cited in a 35 U.S.C. 103 rejection. The Examiner further offers that the skilled person would attempt the alleged combination of references "to avoid unnecessary updates and thus improve the transmission capacity." Erstwhile, this is not correct – the transmission capacity of both the GPS (i.e. APS) system and the mobile unit is in no way impacted by the amount of GPS signals processed by the mobile unit. Furthermore, why would the skilled person seek to "avoid unnecessary updates?" There is nothing on the face of Cisneros that would lead the skilled person to seek a reduction in the amount of GPS signals processed by the mobile unit nor, for that matter, any indication as to what exactly constitutes an "unnecessary" update.

"Second, there must be a reasonable expectation of success... The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure." MPEP §2142. The Examiner has offered not one single detail as to how exactly the skilled person would go about "providing" the teachings of Mannings into the system of Cisneros. If a skilled person reading Mannings would thereafter indeed feel compelled to modify Cisneros, as alleged by the Examiner, the only sensible modification to Cisneros would be to vary the frequency of location updates from both the APS (GPS) and UBS systems in Cisneros in dependence on the mobile unit speed and the updates available at its current position (the "size and nature of the overlay" of Mannings). The Examiner has made no showing whatsoever as to why the skilled person would be motivated to modify Cisneros so as to vary the frequency of updates from the GPS system (equated by the Examiner to the claimed first source of location data) in dependence of provision of location data from the UBS system (interpreted by the Examiner as the claimed other source of location data, independent from the first source). Why exactly would the skilled person find it obvious to use one as a determining factor in setting the update frequency of the other? If anything, a fair minded reading of Cisneros suggests that the update frequency of both systems should be approximately the same, given that the navigation processor chooses which source of location data to use (GPS or UBS) based upon the estimated accuracy of each, and updating them both on the same schedule will make comparing their estimated accuracies that much more meaningful and mathematically valid. Thus, if a skilled person would decide to modify Cisneros to vary the

update frequency, the skilled person would be motivated by the plain language of Cisneros to vary the update frequencies of both systems so as to match one another and thereby enable selecting the system with the best estimated accuracy. This, of course, runs directly contrary to the Examiner's asserted combination of the two references.

To make the scope of the claimed invention even more explicit, Applicant has amended claims 1 and 14 to make it clear that the frequency of updates from the first source decreases as updates become available from the second source. As set forth above, this runs directly contrary to what the skilled person might feel compelled to modify in Cisneros, as decreasing the frequency of updates from the first source would only create a lack of data from the first source to compare with data from the second source. In view of the above, Applicant submits that claims 1 and 14 are allowable and respectfully requests the Examiner to reconsider and pass these claims to issue.

Claims 2-13 depend from claim 1 and claims 15-19 depend from claim 14. "If an independent claim is nonobvious under 35 U.S.C. 103, then any claim depending therefrom is nonobvious." *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988). Therefore, in light of the above discussion of claim 1, Applicant submits that claims 2-13 and 15-19 are also allowable.

Regarding the prior art made of record by the Examiner but not relied upon, Applicant believes that this art does not render the pending claims unpatentable.

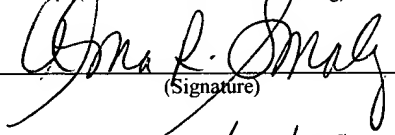
In view of the above, Applicant submits that the application is now in condition for allowance and respectfully urge the Examiner to pass this case to issue.

The Commissioner is authorized to charge any additional fees which may be required or credit overpayment to deposit account no. 08-2025. In particular, if this response is not timely filed, the Commissioner is authorized to treat this response as including a petition to extend the time period pursuant to 37 CFR 1.136(a) requesting an extension of time of the number of months necessary to make this response timely filed and the petition fee due in connection therewith may be charged to deposit account no. 08-2025.

I hereby certify that this correspondence is being deposited with the United States Post Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on

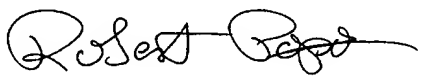
October 10, 2005
(Date of Transmission)

Alma Smalling
(Name of Person Transmitting)


(Signature)

10/10/05
(Date)

Respectfully submitted,



Robert Popa
Attorney for Applicant
Reg. No. 43,010
LADAS & PARRY
5670 Wilshire Boulevard, Suite 2100
Los Angeles, California 90036
(323) 934-2300 voice
(323) 934-0202 facsimile
rpopa@ladasparry.com